

### **REMARKS**

Claims 1-3, 5-12, 14-16, 18-25 and 27-30 were considered in the final Office action mailed on June 13, 2008. As reflected in the listing of claims beginning on page 2 of this paper, Applicants amend claims 1, 14, 27 and 29 herein. Support for the amendments can be found throughout the specification, claims and figures as originally filed, including, for example, at paragraphs [0029], [0030] and [0035] and Figures 2 and 3. Applicants submit that no new matter is introduced by the amendments to the claims. Following entry of the amendments, claims 1-3, 5-12, 14-16, 18-25 and 27-30 will be pending for the Examiner's consideration.

### **Interview Summary**

Applicants thank Supervisory Patent Examiner Jackie Ho for conducting a helpful interview with Applicants' Attorney Karen A. Sinclair on September 2, 2008. During the interview, the outstanding final Office action and the Barbut reference were discussed in light of Applicants' pending independent claims 1, 14, 27 and 29. During the interview, Examiner Ho agreed in principle that the amendments to the claims presented herein specifying that the lumen of the distal portion is co-extensive with the expanded lumen of the proximal portion overcome the art of record.

### **Rejections under 35 U.S.C. § 112, Second Paragraph**

Claims 1 and 14 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly not containing sufficient antecedent basis for the limitation "said front-end loader." In an effort to advance prosecution, but without acquiescing to the rejection, Applicants amend claims 1 and 14 to remove "said" from the rejected phrase. Applicants request reconsideration and withdrawal of the rejection.

### **Rejections under 35 U.S.C. § 102(b)**

Claim 27 was rejected under 35 U.S.C. § 102(b) for allegedly being anticipated by U.S. Patent No. 6,592,546 to Barbut et al. ("Barbut"). Applicants traverse the rejection.

Amended independent claim 27 recites a method for delivering a collapsible intracardiac device to a defect at an anatomical site in a patient. Applicants' claimed method comprises

providing a front-end loader comprising a proximal portion comprising an expanded lumen and a distal portion comprising a tube comprising a proximal end, a distal end, a lumen extending therethrough, the lumen of the distal portion being co-extensive with the expanded lumen of the proximal portion, and a beveled end, the beveled end positioned at the distal end of the tube. Applicants' claimed method further comprises receiving the intracardiac device in the lumen of the tube, delivering the intracardiac device to the patient and implanting the intracardiac device at the anatomical site in the patient.

The Office action alleges that Barbut's handle portion 384 forms the proximal portion as claimed in Applicants' claim 27 and that Barbut's cannula 350 forms the distal portion as claimed in Applicants' claim 27. Applicants submit that claim 27 is patentable over Barbut at least because Barbut does not teach or suggest a distal portion and a proximal portion wherein *the lumen of the distal portion is co-extensive with the expanded lumen of the proximal portion*. Instead, Barbut teaches and depicts in Figure 9A that Barbut's handle portion (380, including 384 and 385) is "disposed about the intermediate region of" Barbut's cannula 350 (Barbut at col. 22, lines 3-6). Accordingly, the lumen of Barbut's handle 380 and the lumen of Barbut's cannula 350 are separated and, therefore, not co-extensive. Further, Barbut teaches that Barbut's handle 380 includes a sealing member 381 "to prevent leakage" between Barbut's cannula 350 and Barbut's handle 380. Barbut at col. 22, lines 8-14. Accordingly, Barbut's handle 380 and Barbut's cannula 350 are designed to prohibit fluid communication between the elements, preventing the elements from having co-extensive lumens, as required by Applicants' claimed invention.

Accordingly, for at least the reasons given above, and for the reasons provided in the Response filed on April 5, 2007, incorporated by reference herein, Applicants submit that claim 27 is patentable over Barbut under 35 U.S.C. § 102(b). Applicants respectfully request that the rejection of claim 27 be reconsidered and withdrawn.

**Rejection under 35 U.S.C. § 103(a)**

Claims 1-3, 5-12, 14-16, 18-25 and 28-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Barbut further in view of U.S. Patent No. 6,168,579 to Tsugita ("Tsugita"). Applicants traverse the rejections.

Amended independent claim 1, upon which claims 2-3 and 5-12 depend, amended independent claim 14, upon which claims 15-16 and 18-25 depend, amended independent claim 27, upon which claim 28 depends, and amended independent claim 29, upon which claim 30 depends, each recite a front-end loader comprising a proximal portion comprising a proximal end, a distal end and an expanded lumen and a distal portion comprising a tube comprising a proximal end, a distal end, a lumen extending therethrough, the lumen of the distal portion being co-extensive with the expanded lumen of the proximal portion.

As discussed above with respect to amended independent claim 27, Applicants submit that each of independent claims 1, 14, 27 and 29 are patentable over Barbut at least because Barbut does not teach or suggest a distal portion and a proximal portion wherein *the lumen of the distal portion is co-extensive with the expanded lumen of the proximal portion*. Instead, Barbut teaches and depicts in Figure 9A that Barbut's handle portion (380, including 384 and 385) is "disposed about the intermediate region of" Barbut's cannula 350 (Barbut at col. 22, lines 3-6). Accordingly, the lumen of Barbut's handle 380 and the lumen of Barbut's cannula 350 are separated and, therefore, not co-extensive. Further, Barbut teaches that Barbut's handle 380 includes a sealing member 381 "to prevent leakage" between Barbut's cannula 350 and Barbut's handle 380. Barbut at col. 22, lines 8-14. Accordingly, Barbut's handle 380 and Barbut's cannula 350 are designed to prohibit fluid communication between the elements, preventing the elements from having co-extensive lumens, as required by Applicants' claimed invention.

Tsugita does not cure the deficiencies of Barbut. Nothing in Tsugita teaches or suggests each of a proximal portion including an expanded lumen and a distal portion including a lumen, wherein *the lumen of the distal portion is co-extensive with the expanded lumen of the proximal portion*. Instead, Tsugita teaches a guiding catheter 30 that is depicted in Tsugita's figures, for example, Figure 1B, as having a *constant* diameter along the length of Tsugita's guiding catheter. Further, Applicants submit that Tsugita's specification provides no teaching or suggestion regarding the diameter of Tsugita's guiding catheter lumen or differences in the

diameter of Tsugita's guiding catheter lumen along the length of Tsugita's guiding catheter 30. Accordingly, neither Barbut nor Tsugita, either alone or in combination, teach each and every elements of Applicants' independent claims 1 and 14. Applicants submit that independent claims 1, 14, 27 and 29 are patentable over each of Barbut and Tsugita.

Claims 2-3, 5-12, 15-16, 18-25, 28 and 30 depend directly or indirectly from independent claims 1, 14, 27 or 29. Therefore, Applicants submit that claims 2-3, 5-12, 15-16, 18-25, 28 and 30 are patentable over Barbut in view of Tsugita for at least the same reasons as claims 1, 14, 17 and 29. Applicants request that the rejections of claims 1-3, 5-12, 14-16, 18-25 and 28-30 under 35 U.S.C. § 103(a) over Barbut in view of Tsugita be reconsidered and withdrawn.

#### **Information Disclosure Statements**

Applicants again respectfully request that the Examiner provide a copy of the November 17, 2003 Form PTO-1449 with the C1 reference initialed and a copy of the April 5, 2004 Form PTO-1449 with the B1 and C2 references initialed with the next Office action.

#### **CONCLUSION**

In view of the foregoing remarks, Applicants respectfully request allowance of claims 1-3, 5-12, 14-16, 18-25 and 27-30. If the Examiner believes that a telephone conversation with Applicants' attorney would expedite allowance of this application, the Examiner is cordially invited to call the undersigned attorney.

Respectfully submitted,

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